

## STAFF REPORT

To: Planning and Economic Development Committee      Date: August 19, 2014

From: Cathy Ball, PE, Executive Director  
Planning and Multimodal Transportation

Via: Gary Jackson, City Manager

Subject: Level II Plan Review Process

Summary Statement: The consideration of an ordinance to amend the UDO to have Level II projects approved by the City of Asheville Technical Review Committee.

Review: Section 7-5-9 of the City's UDO defines a Level II project in the following way:

*A. New construction, renovations, and changes of use.*

- 1. Industrial buildings(s), structure(s), or developments in the industrial district with a gross floor area of 100,000 square feet or more, and industrial building(s), structure(s), or developments in the commercial industrial or river districts with a gross floor area of 50,000 to 100,000 square feet.*
- 2. Commercial building(s) or structure(s) with a gross floor area of 35,000 square feet to 100,000 square feet;*
- 3. Office or institutional building(s) with a gross floor area of 35,000 square feet to 100,000 square feet; or*
- 4. Any manufactured housing rental community, camper/trailer park, or other residential development containing 20 to 50 individual dwelling units.*

*B. Any new non-residential use in a residential zoning district containing more than 10,000 square feet or the expansion of an existing non-residential use in a residential zoning district if the expansion contains more than 10,000 square feet. Additions with a gross floor area of 25 percent or more of the above threshold for new construction for that land use if the resulting total gross area, when combined with the existing gross floor area, would result in a gross floor area meeting or exceeding the above threshold for new construction for that land use if the structure did not previously meet the above threshold. In the case of manufactured housing parks, camper/trailer parks, and residential development; additions of five or more dwelling units on one parcel of land. Properties located within 1,500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be one development and reviewed as such."*

*C. Properties not adjoining or fronting single-family zoning, that are within 500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be one development and reviewed as such. Properties adjoining or fronting single-family zoning, located within 1,500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be one development and reviewed as such.*

Level II projects, as defined by the UDO, are required to meet existing federal, state, and local laws and regulations. If these projects meet all the regulations, they must be approved by the governing body.

Prior to June 2011, properties that fell into this review were approved by staff at Technical Review Committee. On June 14, 2011 the approval authority was moved to the Planning and Zoning Commission.

While the Planning and Zoning Commission holds a public hearing for these projects, the Commission is not allowed to base its decision on any evidence other than the technical requirements. This process creates an expectation from the public that the information they provide in a hearing can be considered in the Commissioner's vote (such as compatibility with the neighborhood).

Staff is requesting that the approval of the Level II projects revert back to the Technical Review Committee so as not to create a false expectation by the public that their non-technical testimony may sway the project approval or to avoid potential litigation from the developer if the plan is not approved but meets the technical requirements.

Staff feels it is still important to notify the neighboring properties of these projects prior to the Technical Review Committee approval so they will have the opportunity to understand and ask questions about the project. Staff will create a process for such notification and be prepared to present it at the City Council Meeting.

Staff is not recommending this change in process for project in the Central Business District as the Downtown Master Plan defines the review and approval process.

Staff brought this item before the Planning and Zoning Commission at their pre-meeting on August 6, 2014. The Board supported staff's recommendation.

Pro:

- Manage the public expectation about their ability to sway the approval of Level II projects.
- Avoid potential litigation.
- Streamline the approval process for Level II projects.

Con:

- Could be perceived as limiting the ability for public input on the approval of the projects. (As mentioned above, staff will develop a process for allowing public input and/or questions prior to the Technical Review Committee meeting.)

Fiscal Impact: No direct financial impact.

Recommendation: The consideration of an ordinance to amend the UDO to have Level II projects approved by the City of Asheville Technical Review Committee.